

EXHIBIT 8

CERTIFIED TRANSCRIPT

- 1 -

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 05-44481 (RDD); Adv. Proc. No. 07-02619 (RDD);

Adv. Proc. No. 07-02242 (RDD); Adv. Proc. No. 07-02256 (RDD);

Adv. Proc. No. 07-02333 (RDD); Adv. Proc. No. 07-02580 (RDD);

Adv. Proc. No. 07-02661 (RDD); Adv. Proc. No. 07-02743 (RDD);

Adv. Proc. No. 07-02768 (RDD); Adv. Proc. No. 07-02769 (RDD);

Adv. Proc. No. 07-02790 (RDD); Adv. Proc. No. 07-02076 (RDD);

Adv. Proc. No. 07-02084 (RDD); Adv. Proc. No. 07-02096 (RDD);

Adv. Proc. No. 07-02125 (RDD); Adv. Proc. No. 07-02177 (RDD);

Adv. Proc. No. 07-02188 (RDD); Adv. Proc. No. 07-02211 (RDD);

Adv. Proc. No. 07-02212 (RDD); Adv. Proc. No. 07-02236 (RDD);

Adv. Proc. No. 07-02250 (RDD); Adv. Proc. No. 07-02262 (RDD);

Adv. Proc. No. 07-02270 (RDD); Adv. Proc. No. 07-02291 (RDD);

Adv. Proc. No. 07-02328 (RDD); Adv. Proc. No. 07-02337 (RDD);

Adv. Proc. No. 07-02348 (RDD); Adv. Proc. No. 07-02432 (RDD);

Adv. Proc. No. 07-02436 (RDD); Adv. Proc. No. 07-02449 (RDD);

Adv. Proc. No. 07-02479 (RDD); Adv. Proc. No. 07-02525 (RDD);

Adv. Proc. No. 07-02534 (RDD); Adv. Proc. No. 07-02539 (RDD);

Adv. Proc. No. 07-02551 (RDD); Adv. Proc. No. 07-02581 (RDD);

Adv. Proc. No. 07-02597 (RDD); Adv. Proc. No. 07-02618 (RDD);

Adv. Proc. No. 07-02623 (RDD); Adv. Proc. No. 07-02659 (RDD);

Adv. Proc. No. 07-02672 (RDD); Adv. Proc. No. 07-02702 (RDD);

Adv. Proc. No. 07-02723 (RDD); Adv. Proc. No. 07-02743 (RDD);

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1 Adv. Proc. No. 07-02744 (RDD); Adv. Proc. No. 07-02750 (RDD);

2 Adv. Proc. No. 07-02188 (RDD)

3 ----- -x

4 In the Matter of:

5 DPH HOLDINGS CORP., et al.,

6 Reorganized Debtors.

7 ----- -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 SETECH INC., et al.,

12 Defendants.

13 ----- -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 DUPONT COMPANY, et al.,

18 Defendants.

19 ----- -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 ECO-BAT AMERICA LLC,

24 Defendant.

25 ----- -x

1 ----- -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 GLOBE MOTORS INC.,

6 Defendant.

7 ----- -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 PHILIPS SEMICONDUCTOR, et al.,

12 Defendants.

13 ----- -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 SUMMIT POLYMERS INC.,

18 Defendant.

19 ----- -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 M & Q PLASTIC PRODUCTS, et al.,

24 Defendants.

25 ----- -x

1 ----- -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 RSR CORPORATION, et al.,

6 Defendants.

7 ----- -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 RSR/ECOBAT,

12 Defendant.

13 ----- -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 TYCO et al.,

18 Defendants.

19 ----- -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 AHAUS TOOL & ENGINEERING INC.,

24 Defendant.

25 ----- -x

1 - - - - -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 A 1 SPECIALIZED SVC & SUPP., INC.,

6 Defendant.

7 - - - - -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 A-1 SPECIALIZED SERVICES,

12 Defendant.

13 - - - - -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 ATS AUTOMATION TOOLING SYSTEMS INC., et al.,

18 Defendants.

19 - - - - -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 CORNING INC., et al.,

24 Defendants.

25 - - - - -x

1 - - - - -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 CRITECH RESEARCH INC.,

6 Defendant.

7 - - - - -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 DOSHI PRETTL INTERNATIONAL, et al.,

12 Defendants.

13 - - - - -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 D & R TECHNOLOGY LLC, et al.,

18 Defendants.

19 - - - - -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 DSSI, et al.,

24 Defendants.

25 - - - - -x

1 - - - - -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 DANOBAT MACHINE TOOL CO. INC.,

6 Defendant.

7 - - - - -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 EDS, et al.,

12 Defendants.

13 - - - - -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 BP, et al.,

18 Defendants.

19 - - - - -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 CARLISLE, et al.,

24 Defendants.

25 - - - - -x

1 -----x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 GKNS INTERMETALS,

6 Defendant.

7 -----x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 EX-CELL-O MACHINE TOOLS INC.,

12 Defendant.

13 -----x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 JOHNSON CONTROLS, et al.,

18 Defendants.

19 -----x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 NILES USA INC., et al.,

24 Defendants.

25 -----x

1 -----x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 METHODE ELECTRONICS INC., et al.,

6 Defendants.

7 -----x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 MICROCHIP,

12 Defendant.

13 -----x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 HEWLETT PACKARD, et al.,

18 Defendants.

19 -----x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 OLIN CORP,

24 Defendant.

25 -----x

1 -----x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 INTEC GROUP,

6 Defendant.

7 -----x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 VALEO, et al.,

12 Defendants.

13 -----x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 VANGUARD DISTRIBUTORS,

18 Defendant.

19 -----x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 VICTORY PACKAGING, et al.,

24 Defendants.

25 -----x

1 - - - - -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 WAGNER-SMITH COMPANY,

6 Defendant.

7 - - - - -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 WELLS FARGO BUSINESS, et al.,

12 Defendants.

13 - - - - -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 SELECT TOOL & DIE CORP.,

18 Defendant.

19 - - - - -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 SHUERT INDUSTRIES INC.,

24 Defendant.

25 - - - - -x

- 12 -

1 ----- -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 SUMITOMO, et al.,

6 Defendants.

7 ----- -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 TECH CENTRAL,

12 Defendant.

13 ----- -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 PRUDENTIAL RELOCATION, et al.,

18 Defendants.

19 ----- -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 LDI INCORPORATED,

24 Defendant.

25 ----- -x

1 ----- -x

2 DELPHI CORPORATION, et al.,

3 Plaintiffs,

4 -against-

5 M & Q PLASTIC PRODUCTS, et al.,

6 Defendants.

7 ----- -x

8 DELPHI CORPORATION, et al.,

9 Plaintiffs,

10 -against-

11 REPUBLIC ENGINEERED PRODUCTS, et al.,

12 Defendants.

13 ----- -x

14 DELPHI CORPORATION, et al.,

15 Plaintiffs,

16 -against-

17 RIECK GROUP LLC,

18 Defendant.

19 ----- -x

20 DELPHI CORPORATION, et al.,

21 Plaintiffs,

22 -against-

23 CRITECH RESEARCH INC.,

24 Defendant.

25 ----- -x

U.S. Bankruptcy Court
300 Quarropas Street
White Plains, New York

July 22, 2010

10:20 AM

B E F O R E:

HON. ROBERT D. DRAIN

U.S. BANKRUPTCY JUDGE

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RE: ADV. PROC. NO. 07-02619 (RDD):

HEARING re Setech, Inc.'s Motion to Vacate and to Dismiss
(Docket No. 20094)

RE: CASE NO. 0544481 (RDD):

HEARING re Joinder of E. I. du Pont de Nemours and Company to
Motions (I) to Vacate Prior Orders Establishing Procedures for
Certain Adversary Proceedings, Including Those Commenced by the
Debtors Under 11 U.S.C. Sections 541, 544, 545, 547, 548, or
549, and Extending the Time to Serve Process for Such Adversary
Proceedings, (II) Pursuant to Fed. R. Civ. P. 12(b) and Fed. R.
Bankr. P. 7012(b) Dismissing the Adversary Proceeding with
Prejudice, or (III) in the Alternative, Dismissing the
Adversary Proceeding on the Ground of Judicial Estoppel (Docket
No. 19999)

RE: ADV. PROC. NO. 07-02242 (RDD):

HEARING re Statement Of E. I. Du Pont De Nemours And Company
And Its Affiliates In Support Of Certain Reply Briefs Filed
With Respect To Motions (I) To Vacate Prior Orders Establishing
Procedures For Certain Adversary Proceedings, Including Those
Commenced By The Debtors Under 11 U.S.C. Sections 541, 544,
545, 547, 548, Or 549, And Extending The Time To Serve Process
For Such Adversary Proceedings, (II) Pursuant To Fed. R. Civ.

1 P. 12(b) And Fed. R. Bankr. P. 7012(b), Dismissing The
2 Adversary Proceeding With Prejudice, Or (III) In The
3 Alternative, Dismissing The Adversary Proceeding On The Ground
4 Of Judicial Estoppel (Docket No. 20323)

5
6 RE: ADV. PROC. NO. 07-02256 (RDD):

7 HEARING re Complaint against Defendant 200A.

8
9 RE: ADV. PROC. NO. 07-02333 (RDD):

10 HEARING re Replies in Support of Motions (I) to Vacate Prior
11 Orders Establishing Procedures for Certain Adversary
12 Proceedings, Including Those Commenced by the Debtors Under 11
13 USC Sections 541, 544, 545, 547, 548, or 549, and Extending the
14 Time to Serve Process for Such Adversary Proceedings, (II)
15 Dismissing the Adversary Proceeding with Prejudice, or (III) In
16 The Alternative, Dismissing the Adversary Proceeding on the
17 Grounds of Judicial Estoppel (Docket No. 20341)

18
19 RE: ADV. PROC. NO. 07-02580 (RDD):

20 HEARING re Joinder Of Philips Semiconductor, Philips
21 Semiconductors, And Philips Semiconductors, Inc (N/K/A NXP
22 Semiconductors USA, Inc.) To (I) Reply Memorandum Of Law In
23 Support Of Motions Of Affinia, GKN, MSX And Valeo To: (A)
24 Vacate Certain Prior Orders Of The Court; (B) Dismiss The
25 Complaint With Prejudice; (C) And (D) Dismiss Claims Based On

1 Assumption Of Contracts; Or (E) In The Alternative, To Require
2 Plaintiffs To File A More Definite Statement And (II) Reply Of
3 HP Enterprise Services, LLC And Affiliates In Support Of Their
4 Motion For An Order Dismissing The Complaint With Prejudice,
5 And Vacating Certain Prior Orders Pursuant To Fed. R. Civ. P.
6 60 And Fed. R. Bankr. P. 9024 (Docket No. 20353)

7
8 ADV. PROC. NO. 07-02661 (RDD):

9 HEARING re Joinder Of Summit Polymers, Inc. To Motions (I) To
10 Vacate Prior Orders Establishing Procedures For Certain
11 Adversary Proceedings, Including Those Commenced By The Debtors
12 Under 11 U.S.C. Sections 541, 544, 545, 547, 548, Or 549, And
13 Extending The Time To Serve Process For Such Adversary
14 Proceedings; (II) Dismissing The Adversary Proceeding With
15 Prejudice; Or (III) In The Alternative, Dismissing The
16 Adversary Proceeding On The Ground Of Judicial Estoppel (Docket
17 No. 20)

18
19 RE: ADV. PROC. NO. 07-02743 (RDD):

20 HEARING re Joinder Of M&Q Plastic Products L.P. To Motions (I)
21 To Vacate Prior Orders Establishing Procedures For Certain
22 Adversary Proceedings, Including Those Commenced By The Debtors
23 Under 11 U.S.C. Sections 541, 544, 545, 547, 548, Or 549, And
24 Extending The Time To Serve Process For Such Adversary
25 Proceedings, (II) Dismissing The Adversary Proceeding With

1 Prejudice, Or (III) In The Alternative, Dismissing The
2 Adversary Proceeding On The Ground Of Judicial Estoppel (Docket
3 No. 19818)
4

5 RE: ADV. PROC. NO. 07-02768 (RDD):

6 HEARING re Complaint against Defendant 566A, Defendant 566B,
7 Defendant 566C
8

9 RE: ADV. PROC. NO. 07-02769 (RDD):

10 HEARING re Complaint against Defendant 567A
11

12 RE: ADV. PROC. NO. 07-02790 (RDD):

13 HEARING re Motion of Tyco Adhesives LP, and Joinder with
14 Motions of Fin Machine Co. Ltd. and Wagner-Smith Company, for
15 an Order: (I) Pursuant to Fed. R. Civ. P. 60 and Fed. R. Bankr.
16 P. 9024 Vacating Prior Orders Establishing Procedures for
17 Certain Adversary Proceedings, Including Those Commenced by the
18 Debtors Under 11 U.S.C. Sections 541, 544, 545, 547, 548, or
19 549, and Extending the Time to Serve Process for Such Adversary
20 Proceedings, and (II) Pursuant to Fed. R. Civ. P. 12 and Fed.
21 R. Bankr. P. 7012, Dismissing the Adversary Proceeding with
22 Prejudice for Failure to State a Cause of Action Because it is
23 Barred by the Two Year Statute of Limitations, and (III)
24 Pursuant to Fed. R. Civ. P. 12 and Fed. R. Bankr. P. 7012
25 Dismissing the Adversary Proceeding with Prejudice for Failure

- 19 -

1 to State a Cause of Action Because it is Insufficiently Pled,
2 and (IV) Dismissing the Adversary Proceeding on the Ground of
3 Judicial Estoppel, and (V) Dismissing the Adversary Proceeding
4 on the Ground of Laches, or (VI) in the Alternative, Pursuant
5 to Fed. R. Civ. P. 12(e) and Fed. R. Bankr. P 7012(e),
6 Directing a More Definite Statement of the Pleadings (Docket
7 No. 20089)

8
9 RE: CASE NO. 05-44481 (RDD):

10 HEARING re Reply And Joinder In Further Support Of Motion Of
11 Johnson Controls, Johnson Controls Battery Group, Johnson
12 Controls GMBH & Co. KG And Johnson Controls, Inc. To: (A)
13 Vacate Certain Prior Orders Of The Court; (B) Dismiss The
14 Complaint With Prejudice; Or (C) In The Alternative, To Dismiss
15 The Claims Against Certain Defendants Named In The Complaint
16 And To Require Plaintiffs To File A More Definite Statement
17 (Docket No. 20298)

18
19 RE: CASE NO. 05-44481 (RDD):

20 HEARING re Response of Reorganized Debtors to Motions to Vacate
21 Certain Orders and Dismiss Adversary Actions filed by Eric
22 Fisher on behalf of DPH Holdings Corp. et al.

23
24 RE: CASE NO. 05-44481 (RDD):

25 HEARING re Joinder Of Vanguard Distributors, Inc. In Further

1 Support Of Motion For Order (I) Vacating Certain Prior Orders;
2 And (II) Dismissing The Adversary Proceeding With Prejudice
3 (Docket No. 20319)
4

5 RE: CASE NO. 05-44481 (RDD):

6 HEARING re Joinder Of Wells Fargo Bank, N.A. (Named Herein As
7 Wells Fargo Business And Wells Fargo Minnesota) To Replies (I)
8 To Vacate Certain Prior Orders Of The Court Pursuant To Fed. R.
9 Civ. P. 60 And Fed. R. Bankr. P. 9024; (II) To Dismiss The
10 Complaint With Prejudice; (III) To Dismiss The Claims Against
11 Certain Defendants Named In The Complaint; Or (IV) In The
12 Alternative, To Require Plaintiffs To File A More Definite
13 Statement (Docket No. 20338)
14

15 RE: CASE NO. 05-44481 (RDD):

16 HEARING re Reply Memorandum Of Law In Support Of Motions Of
17 Affinia, GKN, MSX And Valeo To: (A) Vacate Certain Prior Orders
18 Of The Court; (B) Dismiss The Complaint With Prejudice; (C) And
19 Dismiss The Claims Against Certain Defendants Named In The
20 Complaint; And (D) Dismiss Claims Based On Assumption Of
21 Contracts; Or (E) In The Alternative, To Require Plaintiffs To
22 File A More Definite Statement (Docket No. 20304)
23

24 RE: CASE NO. 05-44481 (RDD):

25 HEARING re Reorganized Debtors' Supplemental Reply To Response

1 Of Claimants To Reorganized Debtors' Objections To Proofs Of
2 Administrative Expense Claim Numbers 18742, 19717, 19719, And
3 20053 (Docket No. 20397)
4

5 RE: CASE NO. 05-44481 (RDD):

6 HEARING re Reorganized Debtors' Supplemental Reply To Response
7 On Behalf Of Claimant To Reorganized Debtors' Objection To
8 Proof Of Administrative Expense Claim Number 19568 Filed On
9 Behalf Of Paullion Roby (Docket No. 20398)
10

11 RE: CASE NO. 05-44481 (RDD):

12 HEARING re Claim Objection Hearing Regarding Claims of New
13 Jersey Self-Insurer's Guaranty Association as Objected to on
14 Reorganized Debtors' Forty-Sixth Omnibus Objection Pursuant To
15 11 U.S.C. Section 503(b) And Fed. R. Bankr. P. 3007 To (I)
16 Disallow And Expunge Certain Administrative Expense (A) Books
17 And Records Claims, (B) Methode Electronics Claims, (C) State
18 Workers' Compensation Claims, (D) Duplicate State Workers'
19 Compensation Claims, (E) Workers' Compensation Claims, (F)
20 Transferred Workers' Compensation Claims, (G) Tax Claims, (H)
21 Duplicate Insurance Claims, And (I) Severance Claims, (II)
22 Disallow And Expunge (A) A Certain Duplicate Workers'
23 Compensation Claim, (B) A Certain Duplicate Tax Claim, And (C)
24 A Certain Duplicate Severance Claim, (III) Modify Certain
25 Administrative Expense (A) State Workers' Compensation Claims

- 22 -

1 And (B) Workers' Compensation Claims, And (IV) Allow Certain
2 Administrative Expense Severance Claims (Docket No. 19711)

3
4 RE: CASE NO. 05-44481 (RDD):

5 HEARING re Notice Of Motion By Methode Electronics, Inc. For An
6 Order (I) Permitting Methode To Continue Post-Petition
7 Litigation With The Reorganized Debtors In Michigan And (II)
8 Overruling The Reorganized Debtors' Timeliness Objection To
9 Methode's Administrative Expense Claims (Docket No. 19895) and
10 Supplement To Motion Of Methode Electronics, Inc. For An Order
11 (I) Permitting Methode To Continue Post-Petition Litigation
12 With The Reorganized Debtors In Michigan And (II) Overruling
13 The Reorganized Debtors' Timeliness Objection To Methode's
14 Administrative Expense Claims (Docket No. 20274)

15
16 RE: CASE NO. 05-44481 (RDD):

17 HEARING re Joinder In Plaintiffs' Omnibus Response To Motions
18 Seeking, Among Other Forms Of Relief, Orders To Vacate Certain
19 Procedural Orders (Docket No. 20226)

20
21 RE: CASE NO. 05-44481 (RDD):

22 HEARING re Reorganized Debtors' Supplemental Reply With Respect
23 To Proofs Of Administrative Expense Claim Numbers 18602 And
24 19712 (New Jersey Self-Insurers Guaranty Association) (Docket
25 No. 20446)

1
2 RE: CASE NO. 05-44481 (RDD):

3 HEARING re Notice of Hearing on Proposed Fifty-Seventh Omnibus
4 Hearing Agenda
5

6 RE: CASE NO. 05-44481 (RDD):

7 HEARING re Notice of Hearing on Proposed Thirty-Fifth Claims
8 Hearing Agenda
9

10 RE: ADV. PROC. NO. 07-02076 (RDD):

11 HEARING re Joinder Of Ahaus Tool & Engineering Inc. To Motions
12 Seeking An Order (I) Pursuant To Fed. R. Civ. P. 60 And Fed. R.
13 Bankr. P. 9024, Vacating Prior Orders Establishing Procedures
14 For Certain Adversary Proceedings, Including Those Commenced By
15 The Debtors Under 11 U.S.C. Sections 541, 544, 545, 547, 548,
16 Or 549, And Extending The Time To Serve Process For Such
17 Adversary Proceedings, (II) Pursuant To Fed. R. Civ. P. 12(b)
18 And Fed. R. Bankr. P. 7012(b), Dismissing The Adversary
19 Proceeding With Prejudice, Or (III) In The Alternative,
20 Dismissing The Adversary Proceeding On The Ground Of Judicial
21 Estoppel And Replies To Debtors' Omnibus Response To Said
22 Motions (Docket No. 20336)
23

24 RE: ADV. PROC. NO. 07-02084 (RDD):

25 HEARING re Motion to Dismiss Adversary Proceeding and for

1 Related Relief filed by Deirdre Woulfe Pacheco on behalf of A 1
2 Specialized SVC & Supp., Inc. (Docket No. 21)

3
4 RE: ADV. PROC. NO. 07-02096 (RDD):
5 HEARING re Motion to Dismiss Adversary Proceeding and for
6 Related Relief filed by Deirdre Woulfe Pacheco on behalf of A-1
7 Specialized Services (Docket No. 22)

8
9 RE: ADV. PROC. NO. 07-02125 (RDD):
10 HEARING re ATS Automation Tooling Systems, Inc.'s Motion and
11 Brief of Defendant to: (A) Vacate Certain Orders of this Court;
12 and (B) Dismiss the Complaint (v. ATS Automation Tooling, et
13 al.) with Prejudice; or (C) in the Alternative, to Dismiss the
14 Claims Against Certain Defendants Named in the Complaint
15 (Docket No. 20088)

16
17 RE: ADV. PROC. NO. 07-02177 (RDD):
18 HEARING re Complaint against Defendant 152A, Defendant 152B,
19 Defendant 152C

20
21 RE: ADV. PROC. NO. 07-02188 (RDD):
22 HEARING re Joinder of Crittech Research Inc. to Motions (I) to
23 Vacate Prior Orders Establishing Procedures for Certain
24 Adversary Proceedings, Including Those Commenced by the Debtors
25 Under 11 U.S.C. Sections 541, 544, 545, 547, 548, or 549, and

- 25 -

1 Extending the Time to Serve Process for Such Adversary
2 Proceeding with Prejudice, or (III) in the Alternative,
3 Dismissing the Adversary Proceeding on the Ground of Judicial
4 Estoppel (Docket No. 20106)

5
6 RE: ADV. PROC. NO. 07-02211 (RDD):

7 HEARING re Doshi Prettl International's Notice of Motion and
8 Brief of Defendant to: (A) Vacate Certain Orders of This Court;
9 and (B) Dismiss the Complaint with Prejudice; or (C) in the
10 Alternative, to Dismiss the Claims Against Certain Defendants
11 Named in the Complaint (Docket No. 20093)

12
13 RE: ADV. PROC. NO. 07-02212 (RDD):

14 HEARING re Joinder of D&R Technology, LLC to Motion (I) To
15 Vacate Prior Orders Establishing Procedures For Certain
16 Adversary Proceedings, Including Those Commenced By The Debtors
17 Under 11 U.S.C. Sections 541, 544, 545, 547, 548, Or 549, And
18 Extending The Time To Serve Process For Such Adversary
19 Proceedings, and (II) In The Alternative, Dismissing The
20 Adversary Proceedings On The Grounds Of Being Barred by the
21 Statute of Limitations and/or Judicial Estoppel

22
23 RE: ADV. PROC. NO. 07-02212 (RDD):

24 HEARING re Joinder of D&R Technology, LLC To Replies to
25 Reorganized Debtors Omnibus Response to Motions Seeking, Among

1 Other Forms of Relief, Orders to Vacate Certain Procedural
2 Orders Previously Entered by This Court and to Dismiss the
3 Avoidance Actions Against the Moving Defendants (Docket No.
4 20344)

5
6 RE: ADV. PROC. NO. 07-02236 (RDD):

7 HEARING re Reply Of DSSI Defendants To The Debtors' Omnibus
8 Response, And Joinder In Further Support Of The Motion Of The
9 DSSI Defendants Seeking An Order (I) Pursuant To Fed. R. Civ.
10 P. 60 And Fed. R. Bankr. P. 9024, Vacating Prior Orders
11 Establishing Procedures For Certain Adversary Proceedings,
12 Including Those Commenced By Delphi Corporation, Et Al. Under
13 11 U.S.C. Sections 541, 544, 545, 547, 548, And/Or 549, And
14 Extending The Time To Serve Process For Such Adversary
15 Proceedings; (II) Dismissing The Adversary Proceeding With
16 Prejudice Pursuant To Fed. R. Civ. P. 12(b) And Fed. R. Bankr.
17 P. 7012(b) (Docket No. 20325)

18
19 RE: ADV. PROC. NO. 07-02250 (RDD):

20 HEARING re Motion of Danobat Machine Tool Co., Inc. for An
21 Order (i) Pursuant to Fed. R. Civ. P. 60 and Fed. R. Bankr. P.
22 9024, relieving it from the effect of prior orders establishing
23 procedures for certain adversary proceedings and extending the
24 time to serve process for such adversary proceedings, and (ii)
25 Pursuant to Fed. R. Civ. P. 12(b) and Fed. R. Bankr. P.

- 27 -

7012(b), dismissing the complaint with prejudice, or (iii) in
the alternative, dismissing the complaint with prejudice on the
grounds of Laches filed by Carmen H. Lonstein on behalf of
Danobat Machine Tool Co Inc. (Docket No. 12)

RE: ADV. PROC. NO. 07-02262 (RDD):

HEARING re Complaint against Defendant 201A, Defendant 201B,
Defendant 201C, Defendant 201D, Defendant 201E, Defendant 201F,
Defendant 201G

RE: ADV. PROC. NO. 07-02262 (RDD):

HEARING re Reply of HP Enterprise Services, LLC and Affiliates
in Support of their Motion for an Order Dismissing the
Complaint with Prejudice, and Vacating Certain Prior Orders
Pursuant to Fed. R. Civ. P. 60 and Fed. R. Bankr. P. 9024,
dated July 2, 2010 (A.P. 02-02262 Docket No. 31)

RE: ADV. PROC. NO. 07-02270 (RDD):

HEARING re Motion to Dismiss Party filed by Christopher B.
Block on behalf of BP Microsystems Inc. (Docket No. 30)

RE: ADV. PROC. NO. 07-02270 (RDD):

HEARING re Motion to Dismiss Adversary Proceeding /Joinder to
Unifrax Corporation's Motion to Dismiss the Adversary
Proceeding with Prejudice and for the Other Relief Sought

1 Therein filed by James S. Carr on behalf of BP, BP Amoco Corp.,
2 BP Microsystems Inc., BP Products North America Inc., Castrol,
3 Castrol Industrial (Docket No. 26)

4
5 RE: ADV. PROC. NO. 07-02270 (RDD):

6 HEARING re Notice of Hearing filed by Christopher B. Block on
7 behalf of BP Microsystems Inc.

8
9 RE: ADV. PROC. NO. 07-02291 (RDD):

10 HEARING re Motion of Carlisle Companies Incorporated for
11 Judgment on the Pleadings and Joinder to Motions (I) to Vacate
12 Prior Orders Establishing Procedures for Certain Adversary
13 Proceedings, Including Those Commenced by the Debtors Under 11
14 U.S.C. Sections 541, 544, 545, 547, 548 or 549, and Extending
15 the Time to Serve Process for Such Adversary Proceedings, (II)
16 Dismissing the Adversary Proceeding with Prejudice, or (III) in
17 the Alternative, Dismissing the Adversary Proceeding on the
18 Ground of Judicial Estoppel (Docket No. 20082)

19
20 RE: ADV. PROC. NO. 07-02328 (RDD):

21 HEARING re Response to Joinder in Plaintiffs' Omnibus Response
22 to Motions Seeking, Among Other Forms of Relief, Orders to
23 Vacate Certain Procedural Orders

1
2 RE: ADV. PROC. NO. 07-02337 (RDD):

3 HEARING re Joinder And Reply In Support Of Motion By Ex-Cell-O
4 Machine Tools, Inc. Seeking An Order (I) Pursuant To Fed. R.
5 Civ. P. 60 And Fed. R. Bankr. P. 9024 Vacating Prior Orders
6 Establishing Procedures For Certain Adversary Proceedings,
7 Including Those Commenced By The Debtors Under 11 U.S.C.
8 Sections 541, 544, 545, 547, 548, Or 549, And Extending The
9 Time To Serve Process For Such Adversary Proceedings; (II)
10 Pursuant To Fed. R. Civ. P. 12(b) And Fed. R. Bankr. P. 7012
11 Dismissing This Adversary Proceeding With Prejudice; (III) In
12 The Alternative, Dismissing This Adversary Proceeding On The
13 Ground Of Judicial Estoppel; (IV) In The Alternative,
14 Dismissing This Adversary Proceeding On The Ground Of Res
15 Judicata; And (V) In The Alternative, Dismissing This Adversary
16 Proceeding On The Grounds That It Fails To Plead Facts
17 Sufficient To State A Claim For Relief (Docket No. 20361)

18
19 RE: ADV. PROC. NO. 07-02348 (RDD):

20 HEARING re Motion to Dismiss Adversary Proceeding filed by
21 Kathleen Leicht Matsoukas on behalf of Johnson Controls,
22 Johnson Controls Battery Group, Johnson Controls GMBH & Co. KG,
23 Johnson Controls Inc.

1
2 RE: ADV. PROC. NO. 07-02348 (RDD):

3 HEARING re Response to Joinder in Plaintiffs' Omnibus Response
4 to Motions Seeking, Among Other Forms of Relief, Orders to
5 Vacate Certain Procedural Orders

6
7 RE: ADV. PROC. NO. 07-02348 (RDD):

8 HEARING re Reply to Motion filed by Kathleen Leicht Matsoukas
9 on behalf of Johnson Controls, Johnson Controls Battery Group,
10 Johnson Controls GMBH & Co. KG, Johnson Controls Inc.

11
12 RE: ADV. PROC. NO. 07-02414 (RDD):

13 HEARING re Complaint against Defendant 444A, Defendant 444B
14

15 RE: ADV. PROC. NO. 07-02432 (RDD):

16 HEARING re Joinder Of Methode Electronics, Inc. To Motions (I)
17 To Vacate Prior Orders Establishing Procedures For Certain
18 Adversary Proceedings, Including Those Commenced By The Debtors
19 Under 11 U.S.C. Sections 541, 544, 545, 547, 548, Or 549, And
20 Extending The Time To Serve Process For Such Adversary
21 Proceedings, and (II) In The Alternative, Dismissing The
22 Adversary Proceedings On The Grounds Of Being Barred by the
23 Statute of Limitations and/or Judicial Estoppel
24
25

1
2 RE: ADV. PROC. NO. 07-02432 (RDD):

3 HEARING re Replies Of Methode Electronics, Inc. To Reorganized
4 Debtors' Omnibus Response To Motions Seeking, Among Other Forms
5 Of Relief, Orders To Vacate Certain Procedural Orders
6 Previously Entered By This Court And To Dismiss The Avoidance
7 Actions Against The Moving Defendants
8

9 RE: ADV. PROC. NO. 07-02436 (RDD):

10 HEARING re Motion by Microchip Technology Incorporated Seeking
11 an Order (I) Pursuant to Fed.R.Civ.P.60 and Fed.R.Bankr.P.9024,
12 Vacating Prior Order Establishing Procedures for Certain
13 Adversary Proceedings, Including Those Commenced by the Debtors
14 Under 1 U.S.C. Sections 541, 544, 545, 547, 548, or 549, and
15 Extending the Time to Serve Process for Such Adversary
16 Proceedings, (II) Pursuant to Fed.R.Civ.P.12(b) and
17 Fed.R.Bankr.R.7012(b), Dismissing the Adversary Proceeding with
18 Prejudice, or (III) In the Alternative, Dismissing the
19 Adversary Proceeding on the Ground of Judicial Estoppel filed
20 on behalf of Microchip (Docket No. 10)
21

22 RE: ADV. PROC. NO. 07-02449 (RDD):

23 HEARING re Complaint against Defendant 289A, Defendant 289B,
24 Defendant 289C, Defendant 289D, Defendant 289E, Defendant 289F,
25 Defendant 289G

1
2 RE: ADV. PROC. NO. 07-02479 (RDD):

3 HEARING re Complaint against Defendant 460A
4

5 RE: ADV. PROC. NO. 07-02525 (RDD):

6 HEARING re Motion to Dismiss Adversary Proceeding /Motion of
7 Defendant The Intec Group, Inc. to Dismiss and Joinder in
8 Hewlett Packard Company and Affiliates' Motion to Dismiss
9 Plaintiffs' Complaint (A. P. 07-02525 Docket No. 21)
10

11 RE: ADV. PROC. NO. 07-02534 (RDD):

12 HEARING re Joinder In Plaintiffs' Omnibus Response To Motions
13 Seeking, Among Other Forms Of Relief, Orders To Vacate Certain
14 Procedural Orders
15

16 RE: ADV. PROC. NO. 07-02539 (RDD):

17 HEARING re Notice of Motion by Vanguard Distributors, Inc.
18 Seeking an Order (I) Pursuant to Fed. R. Civ. P. 12(b) and Fed.
19 R. Bankr. P. 7012(b), Dismissing The Adversary Proceeding with
20 Prejudice, and (II) Pursuant To Fed. R. Civ. P. 60 and Fed. R.
21 Bankr., P. 9024, Vacating Prior Orders Establishing Procedures
22 for Certain Adversary Proceeding, Including Those Commenced by
23 Delphi Under 11 U.S.C. Sections 541, 544, 545, 547, 548 and/or
24 549, and Extending The Time To Serve Process For Such Adversary
25 Proceedings, Or In the Alternative, (III) Dismissing The

- 33 -

Adversary Proceeding On The Ground of Judicial Estoppel; and
(2) Affidavit in Support of Motion filed on behalf of Vanguard
Distributors (Docket No. 24)

RE: ADV. PROC. NO. 07-02539 (RDD):

HEARING re Joinder Of Vanguard Distributors, Inc. In Further
Support Of Motion For Order (I) Vacating Certain Prior Orders;
And (II) Dismissing The Adversary Proceeding With Prejudice
(Docket No. 20319)

RE: ADV. PROC. NO. 07-02541 (RDD):

HEARING re Joinder In Plaintiffs' Omnibus Response To Motions
Seeking, Among Other Forms Of Relief, Orders To Vacate Certain
Procedural Orders

RE: ADV. PROC. NO. 07-02551 (RDD):

HEARING re Notice Of Motion Of Victory Packaging And Victory
Packaging LP For An Order (I) Dismissing The Complaint With
Prejudice, (II) Vacating Certain Prior Orders Pursuant To Fed.
R. Civ. P. 60 And Fed. R. Bankr. P. 9024 and (III) In The
Alternative, Requiring A More Definite Statement filed on
behalf of Victory Packaging, Victory Packaging LP (Docket No.
20)

1
2 RE: ADV. PROC. NO. 07-02581 (RDD):

3 HEARING re Motion to Dismiss Adversary Proceeding and Seeking
4 An Order: (I) Pursuant To Fed. R. Civ. P. 60 And Fed. R. Bankr.
5 P. 9024 Vacating Prior Orders Establishing Procedures For
6 Certain Adversary Proceedings, Including Those Commenced By The
7 Debtors Under 11 U.S.C. Sections 541, 544, 545, 547, 548, Or
8 549, And Extending The Time To Serve Process For Such Adversary
9 Proceedings, And (II) Pursuant To Fed. R. Civ. P. 12(b) And
10 Fed. R. Bankr. P. 7012(b), Dismissing The Adversary Proceeding
11 With Prejudice, Or (III) In the Alternative, Dismissing The
12 Adversary Proceeding
13

14 RE: ADV. PROC. NO. 07-02581 (RDD):

15 HEARING re Response of Reorganized Debtors to Motions to Vacate
16 Certain Orders and Dismiss Adversary Actions filed by Cynthia
17 J. Haffey on behalf of Delphi Corporation, et al.
18

19 RE: ADV. PROC. NO. 07-02597 (RDD):

20 HEARING re Motion to Dismiss Adversary Proceeding Filed by
21 Jeffrey A. Wurst on behalf of Wells Fargo Business, Wells Fargo
22 Minnesota
23

24 RE: ADV. PROC. NO. 07-02618 (RDD):

25 HEARING re Joinder Of Select Industries, Corp. In Further

1 Support Of Motion For Order (I) Vacating Certain Prior Orders;
2 And (II) Dismissing The Adversary Proceeding With Prejudice
3 (Docket No. 20321)

4
5 RE: ADV. PROC. NO. 07-02623 (RDD):

6 HEARING re Joinder of Shuert Industries, Inc. in Motions to:

7 (I) Vacate Certain Prior Orders of the Court Establishing
8 Procedures for Certain Adversary Proceedings, and (II) Dismiss
9 the Complaint with Prejudice (Docket No. 20036)

10

11 RE: ADV. PROC. NO. 07-02623 (RDD):

12 HEARING re Joinder Of Shuert Industries, Inc. In Replies Of

13 Other Preference Defendants In Support Of Joinder Of Shuert

14 Industries, Inc. In Motions To: (I) Vacate Certain Prior Orders

15 Of The Court Establishing Procedures For Certain Adversary

16 Proceedings, And (II) Dismiss The Complaint With Prejudice

17 (Docket No. 20293)

18

19 RE: ADV. PROC. NO. 07-02659 (RDD):

20 HEARING re Joinder of Sumitomo Corporation and Sumitomo Corp.

21 of America to Motions Filed by Various Preference Defendants to

22 (A) Vacate Certain Prior Orders of the Court; (B) Dismiss the

23 Complaint with Prejudice; or (C) in the Alternative, to Dismiss

24 the Claims Against Certain Defendants Named in the Complaint

25 and to Require Plaintiffs to File a More Definite Statement

1 (Docket No. 20086)

2
3 RE: ADV. PROC. NO. 07-02659 (RDD):

4 HEARING re Motion to Dismiss Adversary Proceeding Or, In The
5 Alternative, For Summary Judgment Filed By Lorraine S. McGowen
6 on Behalf of SUMCO USA Sales Corporation f/k/a Sumitomo Sitix
7 Inc.

8
9 RE: ADV. PROC. NO. 07-02659 (RDD):

10 HEARING re Joinder In Plaintiffs' Omnibus Response To Motions
11 Seeking, Among Other Forms Of Relief, Orders To Vacate Certain
12 Procedural Orders

13
14 RE: ADV. PROC. NO. 07-02672 (RDD):

15 HEARING re Joinder Of Tech Central In Motions To: (I) Vacate
16 Certain Prior Orders Of The Court Establishing Procedures For
17 Certain Adversary Proceedings; (II) Dismiss The Complaint With
18 Prejudice; Or (III) In The Alternative, To Require Plaintiffs
19 To File A More Definitive Statement (Docket No. 27)

20
21 RE: ADV. PROC. NO. 07-02702 (RDD):

22 HEARING re Joinder Of Prudential Relocation, Prudential
23 Relocation Inc. And Prudential Relocation Int'l To Reply Papers
24 Filed In Motions (I) To Vacate Prior Orders Establishing
25 Procedures For Certain Adversary Proceedings, Including Those

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Commenced By The Debtors Under 11 U.S.C. Sections 541, 544,
545, 547, 548, Or 549, And Extending The Time To Serve Process
For Such Adversary Proceedings, (II) Dismissing The Adversary
Proceeding With Prejudice, Or (III) In The Alternative,
Dismissing The Adversary Proceeding On The Ground Of Judicial
Estoppel (Docket No. 26)

RE: ADV. PROC. NO. 07-02723 (RDD):

HEARING re Motion to Dismiss Adversary Proceeding

RE: ADV. PROC. NO. 07-02743 (RDD):

HEARING re Motion of M&Q Plastic Products L.P. Seeking an Order
(I) Dismissing the Complaint with Prejudice; (II) Vacating
Certain Prior Orders Pursuant to Fed. R. Civ. P. 60 and Fed. R.
Bankr. P. 9024; and (III) in the Alternative, Requiring a More
Definite Statement (Docket No. 20098)

RE: ADV. PROC. NO. 07-02744 (RDD):

HEARING re Motion to Dismiss Adversary Proceeding and Vacate
Certain Prior Orders filed on behalf of Republic Engineered
Products (Docket No. 19)

RE: ADV. PROC. NO. 07-02750 (RDD):

HEARING re Motion to Dismiss Case filed on behalf of Rieck
Group LLC (Docket No. 24)

1
2 RE: ADV. PROC. NO. 07-02188 (RDD):
3 HEARING re Joinder of Crittech Research Inc. to Motions (I) to
4 Vacate Prior Orders Establishing Procedures for Certain
5 Adversary Proceedings, Including Those Commenced by the Debtors
6 Under 11 U.S.C. Sections 541, 544, 545, 547, 548, or 549, and
7 Extending the Time to Serve Process for Such Adversary
8 Proceeding with Prejudice, or (III) in the Alternative,
9 Dismissing the Adversary Proceeding on the Ground of Judicial
10 Estoppel (Docket No. 20106)
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13
14
15
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18
19
20
21
22
23

24 Transcribed By: Clara Rubin
25

A P P E A R A N C E S:

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

Attorneys for the Reorganized Debtors

155 North Wacker Drive

Chicago, IL 60606

BY: CARL T. TULLSON, ESQ.

RON E. MEISLER, ESQ.

JOHN K. LYONS, ESQ.

BRANDON M. DUNCOMB, ESQ.

MICHAEL W. PERL, ESQ.

LOUIS S. CHIAPPETTA, ESQ.

ALBERT L. HOGAN III, ESQ.

BUTZEL LONG

Attorneys for the Reorganized Debtors

380 Madison Avenue

22nd Floor

New York, NY 10017

BY: ERIC B. FISHER, ESQ.

1
2 ARENT FOX LLP

3 Attorneys for The Timken Company, The Timken Corporation,
4 and MPB Corporation d/b/a Timken Super Precision
5 1675 Broadway
6 New York, NY 11019
7

8 BY: JAMES M. SULLIVAN, ESQ.
9
10

11 BARNES & THORNBURG LLP

12 Attorneys for the Johnson Control Entities
13 One North Wacker Drive
14 Suite 4400
15 Chicago, IL 60606
16

17 BY: DEBORAH L. THORNE, ESQ.
18

19 BINGHAM MCCUTCHEN LLP

20 Attorneys for Sumitomo Corporation, Sumitomo Corporation
21 of America
22 One State Street
23 Hartford, CT 06103
24

25 BY: KATE K. SIMON, ESQ.

1
2 BRADLEY ARANT BOULT CUMMINGS LLP

3 Attorneys for Defendant, Multi-Tronics

4 1600 Division Street

5 Suite 700

6 Nashville, TN 37203

7
8 BY: ROGER G. JONES, ESQ.

9
10 BRADLEY ARANT BOULT CUMMINGS LLP

11 Attorneys for Defendant, Multi-Tronics

12 One Federal Place

13 1819 Fifth Avenue North

14 Birmingham, AL 35203

15
16 BY: T. PARKER GRIFFIN, JR., ESQ. (TELEPHONICALLY)

17
18 BRYAN CAVE LLP

19 Attorneys for GBC Metals LLC and Spartech Polycom

20 One Metropolitan Square

21 211 North Broadway

22 Suite 3600

23 St. Louis, MO 63102

24
25 BY: LLOYD A. PALANS, ESQ.

1
2 CLEARY GOTTlieb STEEN & HAMILTON LLP

3 Attorneys for HP and EDS Defendants

4 One Liberty Plaza

5 New York, NY 10006

6
7 BY: LISA M. SCHWEITZER, ESQ.

8
9
10 CLARK HILL PLC

11 151 South Old Woodward Avenue

12 Suite 200

13 Birmingham, MI 48009

14
15 BY: MAHESH K. NAYAK, ESQ.

16
17
18 FROST BROWN TODD LLC

19 One Columbus

20 10 West Broad Street, Suite 2300

21 Columbus, OH 43215

22
23 BY: MICHAEL K. YARBROUGH, ESQ.

1
2 HODGSON RUSS LLP

3 The Lincoln Building
4 60 East 42nd Street, 37th Floor
5 New York, NY 10165
6

7 BY: DEBORAH J. PIAZZA, ESQ.
8

9 HONIGMAN MILLER SCHWARTZ AND COHN LLP

10 Attorneys for Defendants, Valeo, Affnia, MSX
11 International, and GKN
12 2290 First National Building
13 660 Woodward Avenue
14 Detroit, MI 48226
15

16 BY: I. W. WINSTEN, ESQ.

17 SETH A. DRUCKER, ESQ. (TELEPHONICALLY)
18

19 JENNER & BLOCK LLP

20 Attorneys for Defendant, Olin Corp.
21 919 Third Avenue, 37th Floor
22 New York, NY 10022
23

24 BY: MARC B. HANKIN, ESQ.
25

1
2 K&L GATES LLP

3 Attorneys for NXP Semiconductors

4 599 Lexington Avenue

5 New York, NY 10022

6
7 BY: ROBERT N. MICHAELSON, ESQ.

8
9
10 KATTEN MUCHIN ROSENMAN LLP

11 575 Madison Avenue

12 New York, NY 10022

13
14 BY: MATTHEW W. OLSEN, ESQ.

15
16
17 KRAMER LEVIN NAFTALIS & FRANKEL LLP

18 Attorneys for Vishay Americas

19 1177 Avenue of the Americas

20 New York, NY 10036

21
22 BY: JORDAN DANIEL KAYE, ESQ.

1
2 LAW OFFICE OF IRA S. SACKS LLP

3 Attorneys for Invotec Engineering

4 575 Madison Avenue

5 10th Floor

6 New York, NY 10022

7
8 BY: TERENCE D. WATSON, ESQ.

9
10 HARRIS D. LEINWAND

11 Attorney for Ahaus Tool & Engineering Inc.

12 315 Madison Avenue

13 Suite 901

14 New York, NY 10017

15
16 BY: HARRIS D. LEINWAND, ESQ.

17
18 LEWIS LAW LLP

19 Attorneys for CriTech Research, Inc.

20 120 Bloomingdale Road

21 Suite 100

22 White Plains, NY 10605

23
24 BY: KENNETH M. LEWIS, ESQ.

1
2 LOCKE LORD BISSELL & LIDDELL LLP

3 Attorneys for Creditor, Method Electronics, Inc.

4 3 World Financial Center

5 New York, NY 10281

6
7 BY: SHALOM JACOB, ESQ.

8
9
10 LOCKE LORD BISSELL & LIDDELL LLP

11 Attorneys for Creditor, Method Electronics, Inc.

12 111 South Wacker Drive

13 Chicago, IL 60606

14
15 BY: COURTNEY E. BARR, ESQ. (TELEPHONICALLY)

16
17
18 MCELROY, DEUTSCH, MULVANEY & CARPENTER, LLP

19 Attorneys for New Jersey Self-Insurers Guaranty

20 Association

21 Three Gateway Center

22 100 Mulberry Street

23 Newark, NJ 07102

24
25 BY: JEFFREY BERNSTEIN, ESQ.

1

2

MORGAN, LEWIS & BOCKIUS LLP

3

Attorneys for Wagner-Smith Company

4

101 Park Avenue

5

New York, NY 10178

6

7

BY: ANDREW D. GOTTFRIED, ESQ.

8

9

10

MORGAN, LEWIS & BOCKIUS LLP

11

Attorneys for Wagner-Smith Company

12

1701 Market Street

13

Philadelphia, PA 19103

14

15

BY: RACHEL JAFFE MAUCERI, ESQ.

16

17

18

NANTZ, LITOWICH, SMITH, GIRARD & HAMILTON

19

Attorneys for LDI, Incorporated

20

2025 East Beltline SE

21

Suite 600

22

Grand Rapids, MI 49546

23

24

BY: HAROLD E. NELSON, ESQ.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ORRICK, HERRINGTON & SUTCLIFFE LLP

Attorneys for SUMCO USA Sales Corporation

51 West 52nd Street

New York, NY 10019

BY: ALYSSA D. ENGLUND, ESQ.

PHILLIPS LYTLE LLP

Attorneys for DuPont

437 Madison Avenue

34th Floor

New York, NY 10022

BY: ALLAN H. HILL, ESQ.

POLSINELLI SHUGART PC

7 Penn Plaza

Suite 600

New York, NY 10001

BY: JASON A. NAGI, ESQ.

1
2 SCHLANGER & SCHLANGER, LLP

3 Attorneys for Plasco, Inc.

4 105 Westchester Avenue

5 Suite 108

6 White Plains, NY 10604

7
8 BY: MICHAEL SCHLANGER, ESQ.

9
10 SNELL & WILMER LLP

11 Attorneys for Microchip Technology Inc.

12 One Arizona Center

13 400 East Van Buren Street

14 Suite 1900

15 Phoenix, AZ 85004

16
17 BY: STEVEN D. JEROME, ESQ.

18
19 STEVENS & LEE P.C.

20 Attorneys for Globe Motors, Inc. and Globe Motors

21 485 Madison Avenue

22 20th Floor

23 New York, NY 10022

24
25 BY: CONSTANTINE D. POURAKIS, ESQ.

1
2 STITES & HARBISON PLLC

3 SunTrust Plaza

4 401 Commerce Street

5 Suite 800

6 Nashville, TN 37219

7
8 BY: ROBERT C. GOODRICH JR.

9
10
11 THOMPSON COBURN LLP

12 Attorneys for KMI Liquidating, LLC

13 One US Bank Plaza

14 St. Louis, MO 63101

15
16 BY: DAVID D. FARRELL, ESQ.

17
18
19 THOMPSON HINE LLP

20 Special Counsel for the Debtors

21 2000 Courthouse Plaza, N.E.

22 10 W. Second Street

23 Dayton, OH 45402

24
25 BY: JENNIFER L. MAFFETT, ESQ.

1
2 THOMPSON & KNIGHT LLP

3 Attorneys for Creditor, Victory Packaging

4 900 Third Avenue

5 20th Floor

6 New York, NY 10022

7
8 BY: IRA L. HERMAN, ESQ.

9 JENNIFER A. CHRISTIAN, ESQ. (TELEPHONICALLY)

10 GABRIELLE E. FARINA, ESQ. (TELEPHONICALLY)

11
12 TODTMAN, MACHAMIE, SPIZZ & JOHNS, P.C.

13 Attorneys for Select Industries

14 425 Park Avenue

15 New York, NY 10022

16
17 BY: JANICE B. GRUBIN, ESQ.

18
19 TOGUT, SEGAL & SEGAL LLP

20 Attorneys for Plaintiffs

21 One Penn Plaza

22 New York, NY 10119

23
24 BY: NEIL BERGER, ESQ.

25 DANIEL F.X. GEOGHAN, ESQ.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VEDDER PRICE P.C.

Attorneys for Intec Group

1633 Broadway

47th Floor

New York, NY 10019

BY: MICHAEL L. SCHEIN, ESQ.

VORYS, SATER, SEYMOUR AND PEASE LLP

Attorneys for Carlisle Companies

52 East Gay Street

Columbus, OH 43216

BY: TIFFANY STRELOW COBB, ESQ.

WACHTELL, LIPTON, ROSEN & KATZ

Attorneys for Methode Electronics

51 West 52nd Street

New York, NY 10019

BY: DOUGLAS K. MAYER, ESQ.

1
2 WARNER NORCROSS & JUDD LLP

3 900 Fifth Third Center

4 111 Lyon Street, N.W.

5 Grand Rapids, MI 49503

6
7 BY: MICHAEL B. O'NEAL, ESQ.

8
9
10 WILENTZ GOLDMAN & SPITZER P.A.

11 Attorneys for A-1 Specialized Services & Supplies, Inc.

12 90 Woodbridge Center Drive

13 Suite 900, Box 10

14 Woodbridge, NJ 07095

15
16 BY: DAVID H. STEIN, ESQ.

17 LETITIA ACCARRINO, ESQ.

18
19
20 WINDELS MARX LANE & MITTENDORF, LLP

21 Attorneys for Tyco Adhesives LP

22 156 West 56th Street

23 New York, NY 10019

24
25 BY: HOWARD L. SIMON, ESQ.

1
2 BODMAN LLP

3 Attorneys for Defendants, Freudenberg, et al.

4 1901 St. Antoine Street

5 6th Floor at Ford Field

6 Detroit, MI 48226

7
8 BY: DAVID J. NOWACZEWSKI, ESQ. (TELEPHONICALLY)

9
10 BOSE, MCKINNEY & EVANS LLP

11 Attorneys for Decatur Plastic Products

12 111 Monument Circle

13 Suite 2700

14 Indianapolis, IN 46204

15
16 BY: DAVID J. JURKIEWICZ, ESQ. (TELEPHONICALLY)

17
18 CALFEE, HALTER & GRISWOLD LLP

19 Attorneys for Defendants, Williams Advanced Materials,

20 Park Ohio Industries, and Blair Strip Steel

21 1400 KeyBank Center

22 800 Superior Avenue

23 Cleveland, OH 44114

24
25 BY: NATHAN A. WHEATLEY, ESQ. (TELEPHONICALLY)

1
2 COHEN, POLLOCK, MERLIN & SMALL, P.C.

3 Attorneys for Creditor, Sasol Germany GMBH

4 3350 Riverwood Parkway

5 Suite 1600

6 Atlanta, GA 30339

7
8 BY: KAREN F. WHITE, ESQ. (TELEPHONICALLY)

9
10 DYKEMA GOSSETT, PLLC

11 Attorneys for Defendant, MJ Celco

12 10 South Wacker Drive

13 Suite 2300

14 Chicago, IL 60606

15
16 BY: ROBERT D. NACHMAN, ESQ. (TELEPHONICALLY)

17
18 FOX ROTHSCHILD LLP

19 Attorneys for Creditor, M&Q Plastic Products

20 Midtown Building, Suite 400

21 1301 Atlantic Avenue

22 Atlantic City, NJ 08401

23
24 BY: BRIAN ISEN, ESQ. (TELEPHONICALLY)

25 MICHAEL J. VICSOUNT, JR., ESQ. (TELEPHONICALLY)

1
2 FOX ROTHSCHILD LLP

3 Attorneys for Defendant, DSSI

4 75 Eisenhower Parkway

5 Suite 200

6 Roseland, NJ 07068

7
8 BY: RICHARD M. METH, ESQ. (TELEPHONICALLY)

9
10 GOLDBERG KOHN

11 Attorneys for Creditor, Johnson Controls

12 55 East Monroe Street

13 Suite 3300

14 Chicago, IL 60603

15
16 BY: JEREMY M. DOWNS, ESQ. (TELEPHONICALLY)

17
18 GREENEBAUM DOLL & MCDONALD PLLC

19 Attorneys for Defendant, DSSI

20 3500 National City Tower

21 101 South Fifth Street

22 Louisville, KY 40202

23
24 BY: CLAUDE R. "CHIP" BOWLES, JR., ESQ. (TELEPHONICALLY)

1
2 HASKELL SLAUGHTER

3 Attorneys for Defendant, Simco Construction Inc.

4 1400 Park Place Tower

5 2001 Park Place North

6 Birmingham, AL 35203

7
8 BY: ROBERT H. ADAMS, ESQ. (TELEPHONICALLY)

9
10 ICE MILLER LLP

11 Attorneys for Creditor, Fin Machine Company

12 One American Square

13 Suite 2900

14 Indianapolis, IN 46282

15
16 BY: HENRY A. EFROYMSON, ESQ. (TELEPHONICALLY)

17
18 KEATING, MUETHING & KLEKAMP PLL

19 Attorneys for Defendant, FA Pech

20 One East Fourth Street

21 Suite 1400

22 Cincinnati, OH 45202

23
24 BY: JASON V. STITT, ESQ. (TELEPHONICALLY)

1
2 KELLEY DRYE & WARREN LLP

3 Attorneys for Creditor, Tata America International

4 101 Park Avenue

5 New York, NY 10178

6
7 BY: GILBERT R. SAYDAH, ESQ. (TELEPHONICALLY)

8
9
10 KEMP KLEIN

11 Attorneys for Defendant, Shuert Industries, Inc.

12 201 W. Big Beaver Road

13 Suite 600

14 Troy, MI 48084

15
16 BY: NORMAN D. ORR, ESQ. (TELEPHONICALLY)

17
18
19 KIRKLAND & ELLIS LLP

20 Attorneys for Defendant, Magnesium Aluminum Corp.

21 300 North LaSalle

22 Chicago, IL 60654

23
24 BY: DAVID SPIEGEL, ESQ. (TELEPHONICALLY)

1
2 LAMBERT, LESER, ISACKSON, COOK & GIUNTA, P.C.

3 Attorneys for Creditors, ProTech Machine and Stephenson &
4 Sons

5 309 Davidson Building

6 916 Washington Avenue

7 Bay City, MI 48708

8
9 BY: SUSAN M. COOK, ESQ. (TELEPHONICALLY)

10
11 LOEB & LOEB, LLP

12 Attorneys for Interested Party, Kyocera

13 345 Park Avenue

14 New York, NY 10154

15
16 BY: DANIEL B. BESILOF, ESQ. (TELEPHONICALLY)

17
18 MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

19 Attorneys for Creditor, Techcentral

20 150 West Jefferson

21 Suite 2500

22 Detroit, MI 48226

23
24 BY: DONALD J. HUTCHINSON, ESQ. (TELEPHONICALLY)

25 TIMOTHY A. FUSCO, ESQ. (TELEPHONICALLY)

1
2
3
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16
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18
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22
23
24
25

NIXON PEABODY LLP

For Defendant, Corning Inc.

437 Madison Avenue

New York, NY 10022

BY: GREGORY J. MASCITTI, ESQ. (TELEPHONICALLY)

RUSKIN MOSCOU FALTISCHEK, P.C.

Attorneys for Creditors, Wells Fargo Business, Wells

Fargo Minnesota

East Tower, 15th Floor

1425 RXR Plaza

Uniondale, NY 11556

BY: JEFFREY A. WURST, ESQ. (TELEPHONICALLY)

SCHAFER AND WEINER, PLLC

Attorneys for Defendant, Macsteel

40950 Woodward Avenue

Suite 100

Bloomfield Hills, MI 48304

BY: RYAN D. HEILMAN, ESQ. (TELEPHONICALLY)

1
2 VARNUM LLP

3 Attorneys for Creditor, Summit Olymers

4 Bridgewater Place

5 Grand Rapids, MI 49501

6
7
8 BY: BRYAN R. WALTERS, ESQ. (TELEPHONICALLY)

9
10 WOLFSON BOLTON

11 Attorneys for Defendant, Excelo Machine Tools & Access

12 One Technology Group, LLC

13 3150 Livernois

14 Suite 275

15 Troy, MI 48083

16
17 BY: ANTHONY J. KOCHIS, ESQ. (TELEPHONICALLY)

18
19 AYALA HASSEL (TELEPHONICALLY)

20
21 GARY MILLER, IN PROPRIA PERSONA (TELEPHONICALLY)

22
23 RAMONA S. NEAL (TELEPHONICALLY)

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1 statute of limitations runs, why would I ever think? So --

2 THE COURT: What about the disclosure statement which
3 did to go every creditor?

4 MR. WINSTEN: Well, but the disclosure statement
5 doesn't say you've been sued. It doesn't say who's been sued.

6 THE COURT: It merely says we've reserved this right.

7 MR. WINSTEN: It says unknown people have been sued.
8 They're telling they want everybody in the dark, and that puts
9 me at inquiry where I'm at risk? That doesn't seem right, Your
10 Honor. That just doesn't seem fair. This is -- I think this
11 is still America. It doesn't work that way. It's not my fault
12 they wanted to keep me in the dark. It's not my problem they
13 wanted to keep me in the dark. It's their problem.

14 THE COURT: Well, I guess the issue is, are you really
15 in the dark? I mean, it may depend on the size of the transfer
16 that went to you within ninety days of the petition date.

17 MR. WINSTEN: Your Honor --

18 THE COURT: I mean, usually, when a really big
19 customer files -- or not usually -- but it often happens that
20 if a really big customer files, a vendor will check to see what
21 transfers they got in the first ninety days--

22 MR. WINSTEN: Let's assume --

23 THE COURT: -- before the petition.

24 MR. WINSTEN: -- that's true. Let's take that
25 hypothetical. Let's assume I'm a really big creditor. I got

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1 ten million --

2 THE COURT: Well, not necessarily a big creditor. You
3 know, you just have a relationship and you may have -- you want
4 to see whether we got a big payment within ninety days.

5 MR. WINSTEN: Let's assume I got one. Let's assume I
6 got ten million dollars, out of the ordinary course. All
7 right? Arguably out of the ordinary course -- within the
8 ninety days. Delphi just filed. Oh, my God. I reserve for
9 that ten million. The two years goes by and they never sue. I
10 now, on reserve, I go live my life. Two and a half years
11 later, I get a complaint.

12 THE COURT: Well, but there's a missing step. Should
13 that person be said to have been on notice if they got the
14 disclosure statement that said Delphi has reserved?

15 MR. WINSTEN: How can you be, Your Honor? How is it
16 fair -- how is it right to say I should have been on notice
17 because they said they've sued unspecified people -- they won't
18 tell me who they are -- who are a small subset, when their
19 admitted purpose was to keep me in the dark? Why am I now on a
20 heightened level of inquiry, when they're telling you their
21 goal is to keep me in the dark?

22 THE COURT: Well, at the same time, though, you
23 weren't necessarily in the dark.

24 MR. WINSTEN: I guess what I -- Your Honor, I don't
25 get that argument. I really don't. I hear you saying it. But

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1 if you look at it and you say wait a minute, you've got a
2 plaintiff who's intentionally trying to keep them in the dark,
3 and now we're going to bend over backwards to try to figure out
4 if maybe they might have had an inkling because there were 800
5 cases filed under seal out of 11,000, and maybe that was one of
6 them, and therefore they're charged with knowledge that it's a
7 possibility, and therefore and therefore, that seems --

8 THE COURT: Again, it seems to me, the issue should
9 be, there were none that were served as opposed to that were
10 under seal. Because again, I -- it's as easy -- it's probably
11 easier to inquire about whether I'm one of the 800 than to go
12 searching the docket.

13 MR. WINSTEN: Well, okay. Well, they don't claim
14 by -- I mean, they don't say how many people inquired. And
15 given the --

16 THE COURT: Well, let me ask you -- let's just say
17 someone did inquire and they were told they're on the docket.
18 I know you're saying your clients didn't do this. But say
19 someone did. They say there were people who did that. Why
20 should they have their motion to dismiss granted?

21 MR. WINSTEN: That's a very good point. Let me answer
22 it this way. First, all five of my sets of clients have
23 affidavits in --

24 THE COURT: No, I know. Yours are not in this --

25 MR. WINSTEN: -- they didn't know.

1 THE COURT: -- yours are not in this group.

2 MR. WINSTEN: We filed a motion. The way the
3 adversary system works is they're supposed to respond. There's
4 not one word from them --

5 THE COURT: No, no. No, that's not -- again, you're
6 talking for like a whole group here, so --

7 MR. WINSTEN: Okay.

8 THE COURT: -- I'm talking now about those who did
9 inquire.

10 MR. WINSTEN: From 177 -- or rather for the 83 moving
11 parties, it was incumbent upon Delphi, if they claim that any
12 of those 83 moving parties had inquired, to tell this Court
13 that they were on notice. This was their opportunity. They
14 haven't said that. Therefore, for purposes of this hearing,
15 none of the 83 inquired.

16 THE COURT: Okay.

17 MR. WINSTEN: Well, I think once Mr. Fisher responds
18 on the 4(m) statute of limitations argument, we're going to
19 need to figure out some organization on the remaining issues,
20 the Iqbal, the abandonment, the res judicata and the no notice
21 whatsoever on due process.

22 THE COURT: Okay. Why don't we deal with the last
23 point. There's nothing in the response that says that any
24 particular movant actually had actual notice, right?

25 MR. FISHER: But I think, Your Honor, the question of

1 actual notice -- the question of actual notice is a fact
2 question. The question of what went out by e-mail, that can be
3 resolved by reference to affidavits of service. But the
4 question of whether any defendant that was in receipt of a
5 preference payment knew that this procedure was going on and
6 knew that it might be among the named defendants is a fact
7 question.

8 THE COURT: Well, what about those people who
9 submitted affidavits that say that they didn't know? Those are
10 uncontroverted, right?

11 MR. FISHER: Without the benefit of taking their
12 deposition, which was not something that we were going to
13 engage in, in advance of a hearing on a motion to dismiss,
14 there's no way to know whether they had actual notice or not,
15 whether they knew or should have known about these motions. I
16 don't think that that's something that can properly be
17 addressed on a motion to dismiss, Your Honor.

18 THE COURT: Okay.

19 MR. FISHER: Your Honor asked about Zapata. And I
20 just wanted to turn to Zapata for a moment, because as Your
21 Honor pointed out, in footnote 7, Judge Jacobs leave open, of
22 course, the question of what would happen where a lower court
23 approves a 4(m) extension, even without good cause. But of
24 course, here we have an express finding of good cause. Your
25 Honor found that on the record after hearing the motion for